

By the Committee on Transportation and Economic Development
Appropriations and Senator Fasano

606-00114-09A

200938Ac1

1 A bill to be entitled
2 An act relating to economic development; creating s.
3 288.1081, F.S.; creating the Economic Gardening
4 Business Loan Pilot Program within the Office of
5 Tourism, Trade, and Economic Development; providing
6 legislative findings and intent; providing eligibility
7 criteria for the award of loans to certain businesses;
8 providing application procedures; requiring loan
9 agreements; providing terms of loans; providing for
10 use of loan proceeds; providing criteria and
11 application procedures for the selection of loan
12 administrators; requiring a loan administrator to
13 enter into a grant agreement; providing for the
14 disbursement of certain funds from the Economic
15 Development Trust Fund; requiring fees for the loan
16 administrator; providing for the collection and
17 deposit of loan payments; requiring the loan
18 administrator to submit a report to the office;
19 requiring the office to adopt rules; authorizing the
20 use of emergency rulemaking procedures; requiring the
21 office to submit a report to the Governor and
22 Legislature; providing for reversion and carryforward
23 of certain unexpended appropriations; prohibiting new
24 loans after a specified date; providing for future
25 repeal; creating s. 288.1082, F.S.; creating the
26 Economic Gardening Technical Assistance Pilot Program
27 within the office; requiring the office to contract
28 for administration of the pilot program; requiring
29 competitive procurement; requiring the provision of

606-00114-09A

200938Ac1

30 technical assistance to certain businesses; providing
31 eligibility criteria for businesses to receive
32 technical assistance; requiring the businesses to
33 enter into agreements with the contracted entity
34 administering the pilot program; requiring the
35 businesses to report certain data; providing that the
36 contracted entity is an economic development agency;
37 providing for review of contracts; requiring the
38 office to submit a report to the Governor and
39 Legislature; authorizing the office to adopt rules;
40 directing the Office of Program Policy Analysis and
41 Government Accountability to submit a report to the
42 Governor and Legislature; authorizing the expenditure
43 of certain funds appropriated for the pilot program;
44 providing an effective date.

45
46 Be It Enacted by the Legislature of the State of Florida:

47
48 Section 1. Section 1. Section 288.1081, Florida Statutes,
49 is created to read:

50 288.1081 Economic Gardening Business Loan Pilot Program.-

51 (1) There is created within the Office of Tourism, Trade,
52 and Economic Development the Economic Gardening Business Loan
53 Pilot Program. The purpose of the pilot program is to stimulate
54 investment in Florida's economy by providing loans to expanding
55 businesses in the state. As used in this section, the term
56 "office" means the Office of Tourism, Trade, and Economic
57 Development.

58 (2) The Legislature finds that it is vital to the overall

606-00114-09A

200938Ac1

59 health and growth of the state's economy to promote favorable
60 conditions for expanding Florida businesses that demonstrate the
61 ability to grow. It is therefore the intent of the Legislature
62 that resources be provided for the pilot program in order to
63 respond to the current extraordinary economic challenges
64 confronting the state.

65 (3) (a) To be eligible for a loan under the pilot program,
66 an applicant must be a business eligible for assistance under
67 the Economic Gardening Technical Assistance Pilot Program as
68 provided in s. 288.1082(4) (a).

69 (b) A loan applicant must submit a written application to
70 the loan administrator in the format prescribed by the loan
71 administrator. The application must include:

72 1. The applicant's federal employer identification number,
73 unemployment account number, and sales or other tax registration
74 number.

75 2. The street address of the applicant's principal place of
76 business in this state.

77 3. A description of the type of economic activity, product,
78 or research and development undertaken by the applicant,
79 including the six-digit North American Industry Classification
80 System code for each type of economic activity conducted by the
81 applicant.

82 4. The applicant's annual revenue, number of employees,
83 number of full-time equivalent employees, and other information
84 necessary to verify the applicant's eligibility for the pilot
85 program under s. 288.1082(4) (a).

86 5. The projected investment in the business, if any, which
87 the applicant proposes in conjunction with the loan.

606-00114-09A

200938Ac1

88 6. The total investment in the business from all sources,
89 if any, which the applicant proposes in conjunction with the
90 loan.

91 7. The number of net new full-time equivalent jobs that, as
92 a result of the loan, the applicant proposes to create in this
93 state as of December 31 of each year and the average annual wage
94 of the proposed jobs.

95 8. The total number of full-time equivalent employees the
96 applicant currently employs in this state.

97 9. The date that the applicant anticipates it needs the
98 loan.

99 10. A detailed explanation of why the loan is needed to
100 assist the applicant in expanding jobs in the state.

101 11. A statement that all of the applicant's corporate
102 assets are pledged as collateral for the loan.

103 12. A statement that the applicant, upon receiving the
104 loan, agrees not to seek additional long-term debt without prior
105 approval of the loan administrator.

106 13. A statement that the loan is a joint obligation of the
107 business and of each person who owns at least 20 percent of the
108 business.

109 14. Any additional information requested by the office or
110 the loan administrator.

111 (c) The loan administrator, after verifying the accuracy of
112 a submitted application, shall award the loan to the applicant
113 if the administrator determines that the applicant, as compared
114 to other applicants submitting applications, is in the best
115 position to use the loan to continue making a successful long-
116 term business commitment to the state. The loan administrator

606-00114-09A

200938Ac1

117 also shall consider the following factors:

118 1. Incentives awarded to the applicant from local
119 governments;

120 2. Waivers of taxes, impact fees, or other fees or charges
121 by local governments; and

122 3. Other sources of investments or financing for the
123 project that is the subject of the loan application.

124 (d) A borrower awarded a loan under this section and the
125 loan administrator must enter into a loan agreement that
126 provides for the borrower's repayment of the loan.

127 (4) The following terms apply to a loan received under the
128 pilot program:

129 (a) The maximum amount of the loan is \$250,000.

130 (b) The proceeds of the loan may be used for working
131 capital purchases, employee training, or salaries for newly
132 created jobs in the state.

133 (c) The security interest for the loan's collateral
134 covering all of the borrower's corporate assets must be
135 perfected by recording a lien under the Uniform Commercial Code.

136 (d) The period of the loan is 4 years.

137 (e) The interest rate of the loan is 2 percent. However, if
138 the borrower does not create the projected number of jobs within
139 the terms of the contract, the interest rate shall be increased
140 for the remaining period of the loan to the prime rate published
141 in the Wall Street Journal, as of the date specified in the loan
142 agreement, plus 4 percent.

143 (f) For each month of the first 12 months of the loan,
144 payment is due for interest only. Thereafter, payment for
145 interest and principal is due each month until the loan is

606-00114-09A

200938Ac1

146 repaid in full. Interest and principal payments are based on the
147 unpaid balance of the total loan amount.

148 (5) (a) The office may designate one or more qualified
149 entities to serve as loan administrators for the pilot program.
150 A loan administrator must:

151 1. Be a Florida corporation not for profit incorporated
152 under chapter 617 which has its principal place of business in
153 the state.

154 2. Have 5 years of verifiable experience of lending to
155 businesses in this state.

156 3. Submit an application to the office on forms prescribed
157 by the office. The application must include the loan
158 administrator's business plan for its proposed lending
159 activities under the pilot program, including, but not limited
160 to, a description of its outreach efforts, underwriting, credit
161 policies and procedures, credit decision processes, monitoring
162 policies and procedures, and collection practices; the
163 membership of its board of directors; and samples of its
164 currently used loan documentation. The application must also
165 include a detailed description and supporting documentation of
166 the nature of the loan administrator's partnerships with local
167 or regional economic and business development organizations.

168 (b) The office, upon selecting a loan administrator, shall
169 enter into a grant agreement with the administrator to issue the
170 available loans to eligible applicants. The grant agreement must
171 specify the aggregate amount of the loans authorized for award
172 by the loan administrator. The term of the grant agreement must
173 be at least 4 years, except that the office may terminate the
174 agreement earlier if the loan administrator fails to meet

606-00114-09A

200938Ac1

175 minimum performance standards set by the office. The grant
176 agreement may be amended by mutual consent of both parties.

177 (c) The office shall disburse from the Economic Development
178 Trust Fund to the loan administrator the appropriations provided
179 for the pilot program. Disbursements to the loan administrator
180 must not exceed the aggregate amount of the loans authorized in
181 the grant agreement. The office may not disburse more than 50
182 percent of the aggregate amount of the loans authorized in the
183 grant agreement until the office verifies the borrowers' use of
184 the loan proceeds and the loan administrator's successful credit
185 decisionmaking policies.

186 (d) A loan administrator is entitled to receive a loan
187 origination fee, payable at closing, of 1 percent of each loan
188 issued by the loan administrator and a monthly servicing fee of
189 0.625 percent of each payment made by the borrower. The loan
190 administrator shall collect the monthly servicing fee from the
191 payments made by the borrower, first charging the fee against
192 interest payments and then charging the remainder of the fee
193 against repayments of principal.

194 (e) A loan administrator, after collecting the servicing
195 fee in accordance with paragraph (d), shall remit the borrower's
196 collected interest and principal payments to the office on a
197 quarterly basis. If the borrower defaults on the loan, the loan
198 administrator shall initiate collection efforts to seek
199 repayment of the loan. The loan administrator, upon collecting
200 payments for a defaulted loan, shall remit the payments to the
201 office but, to the extent authorized in the grant agreement, may
202 deduct the costs of the administrator's collection efforts. The
203 office shall deposit all funds received under this paragraph in

606-00114-09A

200938Ac1

204 the General Revenue Fund.

205 (f) A loan administrator shall submit quarterly reports to
206 the office which include the information required in the grant
207 agreement. A quarterly report must include, at a minimum, the
208 number of full-time equivalent jobs created as a result of the
209 loans, the amount of wages paid to employees in the newly
210 created jobs, and the locations and types of economic activity
211 undertaken by the borrowers.

212 (6) The office shall adopt rules under ss. 120.536(1) and
213 120.54 to administer this section. To the extent necessary to
214 expedite implementation of the pilot program, the office may
215 adopt initial emergency rules for the pilot program in
216 accordance with s. 120.54(4).

217 (7) On June 30 and December 31 of each year, beginning in
218 2009, the office shall submit a report to the Governor, the
219 President of the Senate, and the Speaker of the House of
220 Representatives which describes in detail the use of the loan
221 funds. The report must include, at a minimum, the number of
222 businesses receiving loans, the number of full-time equivalent
223 jobs created as a result of the loans, the amount of wages paid
224 to employees in the newly created jobs, the locations and types
225 of economic activity undertaken by the borrowers, the amounts of
226 loan repayments made to date, and the default rate of borrowers.

227 (8) Unexpended balances of appropriations provided for the
228 pilot program shall not revert to the fund from which the
229 appropriation was made at the end of a fiscal year but shall be
230 retained in the Economic Development Trust Fund and be carried
231 forward for expenditure for the pilot program during the
232 following fiscal year. A loan administrator may not award a new

606-00114-09A

200938Ac1

233 loan or enter into a loan agreement after June 30, 2011.
234 Balances of appropriations provided for the pilot program which
235 remain unexpended as of July 1, 2011, shall revert to the
236 General Revenue Fund.

237 (9) This section is repealed July 1, 2016, unless reviewed
238 and reenacted by the Legislature before that date.

239 Section 2. Section 2. Section 288.1082, Florida Statutes,
240 is created to read:

241 288.1082 Economic Gardening Technical Assistance Pilot
242 Program.—

243 (1) There is created within the Office of Tourism, Trade,
244 and Economic Development the Economic Gardening Technical
245 Assistance Pilot Program. The purpose of the pilot program is to
246 stimulate investment in Florida's economy by providing technical
247 assistance for expanding businesses in the state. As used in
248 this section, the term "office" means the Office of Tourism,
249 Trade, and Economic Development.

250 (2) The office shall contract with one or more entities to
251 administer the pilot program under this section. The office
252 shall award each contract in accordance with the competitive
253 bidding requirements in s. 287.057 to an entity that
254 demonstrates the ability to implement the pilot program on a
255 statewide basis and the capability to provide counseling
256 services, access to technology and information, marketing
257 services and advice, business management support, and other
258 similar services. In selecting these entities, the office must
259 consider whether the entities will qualify for matching funds
260 for this purpose.

261 (3) A contracted entity administering the pilot program

606-00114-09A

200938Ac1

262 shall provide technical assistance for eligible businesses which
263 includes, but is not limited to:

264 (a) Access to free or affordable information services and
265 consulting services, including information on markets,
266 customers, and competitors, such as business databases,
267 geographic information systems, and search engine marketing.

268 (b) Information on how to obtain infrastructure, including
269 basic physical infrastructure; quality-of-life infrastructure,
270 such as parks and open spaces; and intellectual infrastructure
271 that provides educational opportunities to help a business
272 maintain its competitiveness.

273 (c) Business connections, including interaction and
274 exchange among business owners and resource providers, such as
275 trade associations, think tanks, academic institutions, business
276 roundtables, peer-to-peer learning sessions, and mentoring
277 programs.

278 (4) (a) To be eligible for assistance under the pilot
279 program, a business must be a for-profit, privately held,
280 investment-grade business that employs at least 10 persons but
281 not more than 50 persons, has maintained its principal place of
282 business in the state for at least the previous 2 years,
283 generates at least \$1 million but not more than \$25 million in
284 annual revenue, qualifies for the tax refund program for
285 qualified target industry businesses under s. 288.106, and
286 during 3 of the previous 5 years, has steadily increased its
287 number of full-time equivalent employees in this state and
288 steadily increased its gross revenues.

289 (b) A contracted entity administering the pilot program, in
290 selecting the eligible businesses to receive assistance, shall

606-00114-09A

200938Ac1

291 choose businesses in more than one industry cluster and, to the
292 maximum extent practicable, shall choose businesses that are
293 geographically distributed throughout the state.

294 (5) (a) A business receiving assistance under the pilot
295 program must enter into an agreement with the contracted entity
296 administering the program to establish the business's commitment
297 to participation in the pilot program. The agreement must
298 require, at a minimum, that the business:

299 1. Attend a minimum number of meetings between the business
300 and the contracted entity administering the pilot program.

301 2. Report job-creation data in the manner prescribed by the
302 contracted entity administering the pilot program.

303 3. Provide financial data in the manner prescribed by the
304 contracted entity administering the program.

305 (b) The office or the contracted entity administering the
306 pilot program may prescribe additional reporting requirements in
307 the agreement which are necessary to track the progress of the
308 business and monitor the business's implementation of the
309 assistance. The contracted entity shall report the information
310 to the office on a quarterly basis.

311 (6) A contracted entity administering the pilot program is
312 authorized to promote the general business interests or
313 industrial interests of the state.

314 (7) The office shall review the progress of a contracted
315 entity administering the pilot program at least once each 6
316 months and shall determine whether the contracted entity is
317 meeting its contractual obligations for administering the pilot
318 program. The office may terminate and rebid a contract if the
319 contracted entity does not meet its contractual obligations.

606-00114-09A

200938Ac1

320 (8) On December 31 of each year, beginning in 2009, the
321 office shall submit a report to the Governor, the President of
322 the Senate, and the Speaker of the House of Representatives
323 which describes in detail the progress of the pilot program. The
324 report must include, at a minimum, the number of businesses
325 receiving assistance, the number of full-time equivalent jobs
326 created as a result of the assistance, if any, the amount of
327 wages paid to employees in the newly created jobs, and the
328 locations and types of economic activity undertaken by the
329 businesses.

330 (9) The office may adopt rules under ss. 120.536(1) and
331 120.54 to administer this section.

332 Section 3. By December 31, 2012, the Office of Program
333 Policy Analysis and Government Accountability shall submit a
334 report to the Governor, the President of the Senate, and the
335 Speaker of the House of Representatives which evaluates the
336 Economic Gardening Technical Assistance Pilot Program in s.
337 288.1082, Florida Statutes, and the pilot program's
338 effectiveness in expanding the targeted businesses.

339 Section 4. From the funds provided in a special
340 appropriations act for the 2008-2009 fiscal year to the Office
341 of Tourism, Trade, and Economic Development for implementation
342 of this act, the office may expend up to \$1.5 million for
343 implementation of the Economic Gardening Technical Assistance
344 Pilot Program created in s. 288.1082, Florida Statutes.

345 Section 5. This act shall take effect upon becoming a law.